

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

LARRY ALLEN SLEDGE,)	
)	
Plaintiff,)	1:21-CV-00348-RAL
)	
vs.)	RICHARD A. LANZILLO
)	UNITED STATES MAGISTRATE JUDGE
COUNSELOR HEATHER MARTIN, CORRECTIONAL OFFICER RYAN TARASOVICH, LT. BEGANICS,)	
)	ORDER ON PENDING MOTIONS
)	
Defendants,)	

Presently pending before the Court are Defendants’ Motion to Dismiss or, alternatively, for Summary Judgment (ECF No. 22) and Plaintiff’s Motion for Summary Judgment (ECF No. 44). Based on the parties’ submissions, all agree that the relevant record for resolving both motions consists principally of the video recordings designated as Exhibits F (body camera surveillance footage) and H (surveillance footage from FE-Pod on April 7, 2020) to Defendants’ motion. *See* ECF No. 25. The record also includes the Affidavit of Warden Gary Seymour (ECF No. 22-2, designated as Defendants’ Exhibit A), verifying the authenticity of Exhibits F and H. By Order dated May 2, 2022 (ECF No. 22), the Court advised the parties that it may treat Defendants’ motion, in whole or in part, as one for summary judgment.

Despite including significant materials and factual assertions beyond the face of the Complaint and moving for summary judgment as alternative relief, the Defendants did not comply with the requirements of W.D. Pa Local Rule 56 concerning the filing of a Concise Statement of Material Facts. In the future, where factual assertions beyond the face of the

Complaint and a request for summary judgment are included in any dispositive motion, parties shall comply fully with Local Rule 56, including the requirement of the filing of Concise Statement of Material Facts. The Court will excuse noncompliance in this matter based on the parties' apparent agreement that the material facts concerning Plaintiff's excessive force claims are largely disclosed by the indisputably authentic video surveillance recordings. The Court will consider other exhibits submitted by the parties only to the extent Plaintiff expressly relies upon them in his Complaint or to the extent they present matters concerning which the Court may take judicial notice.

Because the Plaintiff's Concise Statement of Material Facts in support of his Motion for Summary Judgment simply describes what is shown in the video surveillance recordings, which the Court will independently review, Defendants need not respond to Plaintiff's Concise Statement. It also appears that the relevant issues have been fully briefed in Defendants' and Plaintiff's prior briefs and memoranda in support of and opposition to the pending motions. Therefore, further briefing is not required.

The pending motions are taken under advisement and an order will issue in due course.

DATED this 15th day of November, 2022.

BY THE COURT:



RICHARD A. LANZILLO
UNITED STATES MAGISTRATE JUDGE